STATE OF NORTH CAROLINA

File No. 13 CVS 5248

Cumberland County FILED

In The General Court Of Justice
☐ District ☒ Superior Court Division

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GENERAL CIVIL ACTION COVER SHEET

☒ INITIAL FILING ☐ SUBSEQUENT FILING

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Plaintiff 1
United States Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20350-0001

Name And Address Of Plaintiff 2
Glenn Henderson
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Fayetteville, NC 28314

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☒ Initial Appearance in Case ☐ Change of Address
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FAX No. 910-867-4931
Counsel for ☒ All Plaintiffs ☐ All Defendants ☐ Only *(List party(ies) represented)*

VERSUS

Name Of Defendant 1
Roger Boren
300 S. Spring St., 2nd Floor, North Tower
Los Angeles, CA 90013

Summons Submitted ☐ Yes ☒ No

Name Of Defendant 2
Jon Hilberman
915 Wilshire Blvd., Suite 1900
Los Angeles, CA 90017

Summons Submitted ☐ Yes ☒ No

☒ Jury Demanded In Pleading
Complex Litigation

☐ Amount in controversy does not exceed $15,000
☐ Stipulate to arbitration

TYPE OF PLEADING

(check all that apply)

- ☐ Amend (AMND) *Assess Motions Fee* (SEE NOTE)
- ☐ Amended Answer/Reply (AMND-Response) *Assess Motions Fee* (SEE NOTE)
- ☐ Amended Complaint (AMND) *Assess Motions Fee*
- ☐ Answer/Reply (ANSW-Response) (SEE NOTE)
- ☐ Change Venue (CHVN) *Assess Motions Fee*
- ☒ Complaint (COMP)
- ☐ Confession Of Judgment (CNFJ)
- ☐ Consent Order (CONS)
- ☐ Consolidate (CNSL) *Assess Motions Fee*
- ☐ Contempt (CNTP) *Assess Motions Fee*
- ☐ Continue (CNTN) *Assess Motions Fee*
- ☐ Compel (CMPL) *Assess Motions Fee*
- ☐ Counterclaim (CTCL) *Assess Court Costs*
- ☐ Crossclaim (List On Back) (CRSS) *Assess Court Costs*
- ☐ Dismiss (DISM) *Assess Court Costs*
- ☐ Exempt/Waive Mediation (EXMD) *Assess Motions Fee*
- ☐ Extend Statute Of Limitations, Rule 9 (ESOL) *Assess Motions Fee*
- ☐ Extend Time For Complaint (EXCO) *Assess Motions Fee*

NOTE: *See Side Two for a list of motions not subject to the motions fee.*

(check all that apply)

- ☐ Failure To Join Necessary Party (FJNP) *Assess Motions Fee*
- ☐ Failure To State A Claim (FASC)
- ☐ Improper Venue/Division (IMVN) *Assess Motions Fee*
- ☐ Intervene (INTR) *Assess Motions Fee*
- ☐ Interplead (OTHR) *Assess Motions Fee*
- ☐ Lack Of Jurisdiction (Person) (LJPN) *Assess Motions Fee*
- ☐ Lack Of Jurisdiction (Subject Matter) (LJSM) *Assess Motions Fee*
- ☐ Rule 12 Motion In Lieu of Answer (MDLA) *Assess Motions Fee*
- ☐ Sanctions (SANC) *Assess Motions Fee*
- ☐ Set Aside (OTHR) *Assess Motions Fee*
- ☐ Show Cause (SHOW) *Assess Motions Fee*
- ☐ Transfer (TRFR) *Assess Motions Fee*
- ☐ Third Party Complaint (List Third Party Defendants on Back) (TPCL)
- ☐ Vacate/Modify Judgment (VCMD) *Assess Motions Fee*
- ☐ Withdraw as Counsel (WDCN) *Assess Motions Fee*
- ☐ Other *(specify and list each separately)*

NOTE: *Assess fee only if court permission is required to amend.*

CLAIMS FOR RELIEF

- ☐ Administrative Appeal (ADMA)
- ☐ Appointment Of Receiver (APRC)
- ☐ Attachment/Garnishment (ATTC)
- ☐ Claim And Delivery (CLMD)
- ☐ Collection On Account (ACCT)
- ☐ Condemnation (CNDM)
- ☒ Contract (CNTR)
- ☐ Discovery Scheduling Order (DSCH)
- ☒ Injunction (INJU)
- ☒ Medical Malpractice (MDML)
- ☐ Minor Settlement (MSTL)
- ☐ Money Owed (MNYO)
- ☐ Negligence - Motor Vehicle (MVNG)
- ☒ Negligence - Other (NEGO)
- ☐ Motor Vehicle Lien G.S. 44A (MVLN)
- ☐ Limited Driving Privilege - Out-Of-State Convictions (PLDP)
- ☐ Possession Of Personal Property (POPP)
- ☐ Product Liability (PROD)
- ☐ Real Property (RLPR)
- ☐ Specific Performance (SPPR)
- ☒ Other (specify and list separately) Constitutional, Civil Rights violations

Date 7/9/13

Signature Of Attorney/Party

NOTE: *All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a General Civil (AOC-CV-751), Motion (AOC-CV-752) or Court Action (AOC-CV-753) cover sheet.*

(Over)

Complaint

1. Reasons for this Case. This case is mainly about the unconstitutional CA Code of Civil Procedure Section 391and the partially unconstitutional Federal Local Rule 83-8 being used against me, even though I had not remotely violated either law, and about getting these laws declared unconstitutional. I was wrongly and maliciously declared to have violated these laws. This case is about constitutional and Civil Rights violations. I would like for the court to rule I had not violated the laws, that they were wrongfully, illegally, and maliciously used against me, to make sure these wrongs are adequately punished and for there to be compensatory, emotional damage, punitive, injunctive, and declaratory relief for me, and for criminal prosecution against the defendants. 83-8 is partially unconstitutional in the place where it refers to CA Code of Civil Procedure Section 391. I want it declared all of my cases had merit and should not have been dismissed and could have gone to trial. It may sound like I have had a lot of cases, but it is not considering the wrongs that were done by the defendants. Some of my cases were dismissed without prejudice and some were dismissed with prejudice, including some because I refused to pay $10,000 to have them heard. Except for my first case, I want it ruled that my cases were dismissed wrongly by mistakes by some judges and justices and/or by bad faith lying and tricks by lawyers and/or by bad faith and corruption by some judges and justices. I want it ruled that the cases involving 391 and 83-8 that were dismissed

with prejudice were wrongly dismissed. I want my cases reinstated, tried, and actually litigated. I am complaining about the judges in their public, professional, and personal capacities. I want it declared these cases had merit and cannot be used against me. I am challenging my cases except the first. I have 10 years to challenge these cases, according to CA and NC laws. RICO applies. My cases were used against me by Sony in an attempt to get sanctions in federal court; they failed. Then, they tried in state court using 391 with Judge Hilberman, then in federal court using 83-8 with Judge Wright. That violated res judicata and collateral estoppels. I am fighting that I was defamed in court and want to bring claims that were dismissed without prejudice. I am trying to show I had not had 5 cases adversely and finally determined against me when Hilberman used 391 against me and had not violated any of 391.

2. Events that Lead to my Cases. I was wrongfully and maliciously punished and terminated by Sony. Sony fraudulently got me to sign an unfair settlement. Sony illegally threatened and harassed me about free speech and continued to retaliate against me after my termination. My union would not adequately help me. My union representative lied in court papers. The EEOC did not adequately help me. I was denied workers' compensation (WC) and defamed by doctors who did not look at all the evidence and was denied WC because of Sony's fraudulent conduct. While getting medical records for my WC claim, I found out a psychologist had made up

defaming claims about me. The LA DA's office, CA DOJ, and USDOJ would not help me with my problems with Sony. I found I had post traumatic stress syndrome (PTSD), anxiety disorder, and depression because of a doctor's actions when I was a child. Sony and corrupt lawyers, judges, and justices started that up again and made it much worse. The defendants in this case were all saying these things done to me were perfectly all right, and that I have no complaint. Not only that, but I am the bad guy for complaining about and fighting these things, and I need to be punished. That is absolutely ridiculous and absolute bad faith. I wonder how anyone would feel if all this happened to them and if all these people did all this wrong. It is unbelievable what some people will do.

3. My Cases. There were 21 cases I talked about in the last case, which was case 24. There were 23 on record , but 2 were transferred and were in both federal and state court. 6 of the 21 were because I thought I had to file in both state and federal court, or there would have been 15. (I filed once in state court and once in federal court at about the same time and about the same or partly the same issues 6 times for a total of 12 cases.) 2 others were about trying to get off the 391 list and 2 were about addressing constitutional and Civil Rights wrongs related to court and court papers, or there would have been 11. 3 others were about Sony's wrongdoing after my termination, or there would have been 8. A service issue occurred with the EEOC, or there would have been 7. That left 7 original defendants or groups of defendants:

Sony (and WC carrier), union, EEOC, LA DA's office (other law enforcement or court people), WC doctor (another later), psychologist, and a doctor (and hospital). My cases were as follows in the next paragraphs. I refer to these cases and mention the documents of these cases, so I can show them to help the court to see my points and more details of the wrongs by the defendants and so this complaint would not be a few hundred pages long. I thought federal issues belonged in federal court and state issues belonged in state court. I can do that. I realize now I can also combine federal and state issues in one case. The cases discussed next with CV were in federal court. The others were in state court.

(1) v. Sony, BC270938. CA State Court. This was about discrimination but only in my not getting promoted. I signed a very unfair settlement.

(2) v. Sony CV 02-6081-DDP. Federal Court. This was about discrimination in many things and not just promotions; it was about defamation, wrongful termination, and other things. Sony's lawyer told me I had to drop this case because of the settlement in the last case. I dropped it.

(3) v. EEOC, CV 03-3208 DDP. It was dismissed with prejudice because I had not done administrative remedy and because I could not name the EEOC as a defendant but could name the United States or United States Government. I still had time to do administrative remedy and rename the defendant and did it. The case should have been dismissed without prejudice.

(4) v. Seltzer, CV 03-5431-RSWL. This was dismissed for lack of jurisdiction and affirmed on appeal. I thought doctors are subject to discrimination laws similar to the way restaurants, motels, hotels, and other businesses that are open to the public are as in Title II. I did not realize I could oppose a Motion to Dismiss by the defense, so apparently, it was considered I waived that right.

(5) v. Seltzer, SC078306 and appeal. This was dismissed with prejudice because of immunity relating to writings in medical records. In all my cases, that is the main thing and only significant thing where I did not know or realize the law grants immunity or privilege or did not support me. However, there were others issues such as her trying to help me and refusing to look at my information; I believed that was malpractice and fraud. My attempt at appeal was dismissed because I was told I was too late. I have been confused because the time to appeal is 60 days for a final judgment and 180 days for an order. This case's dismissal and at least some other dismissals in state court have been orders.

(6) v. OPEI union, EC 037889. This was dismissed for lack of jurisdiction. Claims against other defendants were dismissed without prejudice. I believe state law applied because the union stated in a letter that the Collective Bargaining Agreement (CBA) meant union members could not be punished or terminated without cause. If the CBA has to be reviewed, then federal law applies, but the CBA did not have to be reviewed. A trial was scheduled and 12 days before it, the union asked for delay to

wait for the federal court appeal in my case there with the union. I agreed to the delay. The union tried summary judgment before that appeal was ruled on and got it.

(7) v. Wright, SC078334 and appeal. This was partly dismissed for privilege in medical records. I believe there was liability for Wright because they did not supervise and train an employee right. The appeals court said I did not say that; I said Wright should have known there was a problem with the employee. On appeal, the appeals court sent back the part about an employee. I dropped that part because I had enough relief by speaking out and mainly because I did not want an individual to have lawyer expenses. In superior court, the judge stated that I had asked Wright for a diagnosis and had gotten it. I did not ask for a diagnosis. I asked for help with being more assertive. The case was about the psychologist's making up defaming and humiliating things about me that she claimed I said. I did not say them.

(8) v. OPEI union, CV 03-8082 DDP, dismissed with prejudice, and appealed to 9th Circuit and United States Supreme Court. In this case, the union representative said she would speak to the union attorneys. I was complaining that I did not get legal advice or a chance to speak with an attorney. I was not saying the union should have provided an attorney to me for court. I thought in any possible arbitration that the union or union representative would be there and maybe a union attorney. The judge ruled that the statute of limitations had passed. The standard is that the statute of limitations starts to run when the plaintiff knew or should have known the union did

something wrong. The judge ruled that the statute of limitations began when I knew or should have known the union would not be assisting me. The court said that was at least by when I signed a settlement with Sony. I stated that the union representative had told me they had done all they were required to do. I believed her. She stated that in a court paper. They had filed a grievance with Sony. She told me they had no obligation to take my case to arbitration. I believed her. Before my termination, she had told me that because I went to the EEOC, the union did not have to help me with any issues I went to the EEOC about. I believed her. I argued in court or court papers that the union had lied to trick me into thinking they had done all they were required to do and that the statute of limitations should be tolled. I filed within the six months statute of limitations after I thought she was probably lying. I was not really sure until later in the state case when the union representative showed she had not done the duty of fair representation. She claimed she spoke with Sony and investigated on her own after my termination. She did not claim she ever spoke with me and went over my evidence or spoke with my witnesses, and I had claimed she had not. It is unbelievable she would listen to Sony's side and not mine. That is an unbelievable breach of duty to fair representation. I am not sure how she could have investigated on her own. At that time, Sony and I were about to have a mediation sponsored by the EEOC to attempt to resolve all issues and not just EEOC related issues. Sony wanted to put the grievance on hold and evidently got the

union's okay. It is unlikely that Sony would have discussed anything with the union representative at that time before the mediation. The court did not use the standard of the statue of the limitations begins to run when I knew the union did something wrong. I did not know they did wrong until the state case. Knowing or thinking they would not help me is not the same as knowing they did wrong.

(9) v. United States Government, BC304395, not dismissed. This is a case that I filed in state court about the EEOC and that was transferred to federal court.

(10) v. Sony, CV 03-8782-ABC and appealed. This was partially dismissed without prejudice. It was about Sony's threatening me with a restraining order and threatening prosecution if I violated a restraining order, if they got it, and about harassment and retaliation. I had emailed the CEO to tell him I wanted to be able to document what was said if I spoke to a Sony investigator about money Sony kept that customers had overpaid. That was when the threat and harassment started. How my email could possibly not be okay and free speech, I do not know. I wrote to the LA DA's office about it. They did not help or state if they thought my email was free speech. The judge ruled that Sony was not a state player, so I could not sue them about free speech. I think that because the LA DA's office was involved, Sony could be sued under Federal Section 1983. The judge mistakenly ruled that retaliation after termination did not violate Title VII. Sony's lawyers claimed. She said Sony would not be allowed to take away my free speech but did not keep her word. I referred to

the Freedom of Information Act (FOIA). I now agree that it did not apply because it applies to government agencies. I believe Sony was still supposed to give me information about me that I requested. If a wrong law is referred to and another applies, the judge can use the other law. The appeals court upheld.

(11) v. Sony, SC079972. This case was similar to the case directly above, no. (10), CV 03-8782-ABC. It was transferred and combined with the federal case.

(12) v. United States, CV 04-138 DDP. This was not a new filing. This was the case that was transferred from state court. I think it would have been combined with a similar federal case, but the federal case was dismissed without prejudice before the state case was transferred and after I had filed the state case.

(13) v. Sony, CV 04-1346 ABC. This is not a new filing. This case was transferred from state court to federal court. Once it was in federal court, it was combined with case CV 03-8782-ABC, item no. (10). This case shows up in 3 places: once in state court, once alone in federal court, and once in a combined federal case.

(14) v. Sony, Mellon, CV 04-8748 DDP and appealed. This was partially dismissed without prejudice. Part of this case was that I challenged a settlement made in state court that caused a federal case to be dismissed. I think laws clearly supported me. I pointed to the laws. There were other issues. Part of the case was dismissed because the court ruled the settlement could not be voided. The judge dismissed claims he thought were in a previous case, CV 03-8782-ABC. He was mistaken. Sony's

lawyers, in bad faith, tried to trick him into believing that. I stated dates and events that were clearly different from the previous case. The judge dismissed claims against a defendant that was named in the previous case but not in this one. That defendant was not in the second case because it was about different events from the first case. 2 of 3 individual defendants were in both cases. I believe the judge was being honest and not corrupt. Corrupt attorneys, like Sony's and LA County's Glick, will try to use this case as evidence that I re-filed the same case. The appeals court upheld the whole case. I feel I do not get listened to or taken seriously sometimes. I think it is very understandable. The Mellon Bank issue was because I wrote a letter to their CEO about harassment. Mellon spoke to Sony about it. That letter is the only issue at Sony I am not sure was okay for me to do. I want the courts to tell me. Bershad, a supervisor above my immediate supervisor, said I had a good complaint but I did not follow procedures. I do not think I would have written the letter if I had not been under stress at Sony. I wrote it over a year after the incident. I wanted to stand up for myself. Sony said Mellon said I said I did not know what I might do. I did not say that. That would sound like a threat. I could bring back state claims with Mellon.

(15) v. United States Government, CV 05-1434-DDP. This was dismissed without prejudice because I did not serve correctly in time. I served the United States Attorney's Office but did not put Civil Process Clerk on it. The court said I still had

time to serve but dismissed before I could get it done.

(16) v. Sony, ESIS SC085392 and attempted to appeal to the 2nd District and CA Supreme Court and attempted to appeal to the United States Supreme Court. It was dismissed because I did not pay security. I challenged the settlement I had with Sony and listed other wrongs. Some were wrongs that the federal courts had said I could bring back to state court. This is where I was wrongfully put on the unconstitutional 391 vexatious litigant list by Hilberman. The presiding judge of the appeals court said I did not show my case had merit or was not for delay or harassment. I clearly pointed to laws to show my case had merit. I did not delay. Corrupt lawyers, a corrupt and incompetent judge, and corrupt justices all had a part in this. They should all go to prison. Sony, in bad faith, said cases dismissed without prejudice counted as adversely and finally determined. They claimed 8 cases were adverse to me and final. 391 says a pro se who has 5 cases in 7 years adversely and finally determined can be declared a vexatious litigant and put on a list. The 8 cases included 2 that were settled. I argued the settlement was bad for me, and they were agreeing. 3 cases were dismissed with prejudice but mistakes were made by the judges. I discussed that earlier. 2 were dismissed without prejudice. I never asked for a case to be dismissed without prejudice. I clearly have the right to bring back cases and issues dismissed without prejudice. One case was dismissed but not with prejudice. Sony's lawyers acted in bad faith when they did not tell Hilberman they

had tried a similar motion in federal court and were denied that. They withheld evidence. I stated that evidence. Hilberman and Sony should have but did not respect and accept a federal court's ruling. ESIS, Sony's WC insurance company, denied me WC and tried to use 391 on me. In court on 11/18/05, Hilberman was looking at the lawyer for ESIS and told him something about he could file motions. The lawyer did not ask. I believe Hilberman was encouraging, advising, conspiring, and advocating for the lawyer to file a 391 motion and saying the motion would be granted.

(17) v. LA County DA's Office, CA DOJ. BC335920. This was dismissed because I did not post security after Glick abused my constitutional and Civil Rights by having 391 used against me, even though I had not violated any part of it. Judge Stern said he had to use 391 because Hilberman had. I tried to appeal an order of dismissal but was told it was too late. The time to appeal is 60 days for a final judgment and 180 days for an order. This attempt at appeal is similar to case SC078306 in (5). 391 says a motion to use 391 applies only to the moving party. The CA DOJ was a defendant but did not make a similar motion.

(18) v. Robertson, CV 05-5659-ABC and appealed. This was dismissed with prejudice because the court ruled the statute of limitations had passed. During an examination for WC, a psychiatrist diagnosed me with PTSD and other disorders from something that happened when I was five. Before that diagnosis, I never realized I had these disorders or that the incident caused a lot of problems. I never

had a chance to file a case before. I believe this is a case where a change in law could be reasonably argued. I never had a chance for remedy. Statutes of limitations had been changed for cases about sexual abuse and other abuse of children. I did not get equal protection. I have also heard of people being helped, who were hurt a long time ago by the government, like for radiation or disease harm. My incident happened in a county hospital.

(19) v. Sony Pictures, CV 05-9000-DDP. This was dismissed but not with prejudice. There was a federal issue of retaliation. I needed a right to sue letter from the EEOC, which I later got. The court decided not to exercise its right to hear a state claim about defamation.

(20) v. Local 174 union, EC042867. This was dismissed with prejudice. It should not have been. This was about defamation in court papers, the right to clear my name, harassment, threat, and breach of privacy to get a copy of the private settlement I had with Sony. It was retaliation by the union and union representative. The court ruled CA Section 47(b) grants privilege to court papers but did not address the other issues. 47(b) can be ruled to not apply where a constitutional right is involved or violated. I guess I should have filed in federal court.

(21) v. Coddon et al., SC090814. This began the absurd situation I was put into of trying to defend myself from being wrongly declared a vexatious litigant under the unconstitutional 391. I tried to get the state courts to listen to me when they had not

before. I had to try to get judges to say other judges and justices made mistakes or did wrong. The case was dismissed because I was required to post security and did not. I had to request appeal to a corrupt presiding justice, Boren. I did not try. My zealous advocacy was chilled. The Santa Monica Clerk of Court reported to the superior court judge I was on the 391 list.

(23) v. Local 174 Union, CV 07-5100-PA and appealed. I can re-file. The district court dismissed with prejudice. The appeals court reversed the dismissal. I tried to use RICO about what my union had done over the years. CA 47(b) that grants privilege to court papers can be ruled in federal court to not apply if a constitutional right is involved or violated. Surprisingly, Justice Wardlaw was on the appeals panel. She was corrupt in the case I discuss next, no. 24.

(24) v. Hilberman et al. CV 07-7714-ODW. This was an attempt similar to the current case, except the current case includes what has happened since then. I was trying to get off the 391 list and overturn the 83-8 ruling. I wanted 391 ruled unconstitutional and 83-8 ruled partly unconstitutional. I wanted it ruled that the rules were not even used as stated on me. I wanted my cases reinstated and actually litigated. My points were not even addressed by the corrupt and incompetent Judge Otis Wright. I pointed to laws and cases that clearly supported me. The lawyers could be brought to trial for lies and defamation in court papers because *Kimes v. Stone* (1996), a 9th Circuit ruling, overrode CA privilege in court papers if there

were a constitutional issue. Judges can be taken to court under Federal Section 1983 for injunctive relief. As I and the record showed, judges violated my rights to petition, due process, and equal protection. Also, judges can be taken to court for compensatory damages if they advocate, act in an administrative capacity, lack jurisdiction, advocate, are enforcing, or defame. Federal section 1985 applies. Wright had worked for two of the defendants and should have recused himself. I do not see how anyone can really claim this case was ruled on the merits since my claims were not discussed and not refuted.

4. Appeal of the Last Case v. Hilberman et al. CV 07-7714-ODW. The corrupt appeals panel of Wardlaw, Fisher, and Berzon were absolutely and clearly wrong that the questions were insubstantial. They would not let me appeal. They were claiming questions and proof about violations of the Constitution were insubstantial. I do not believe for a second they believed there were no substantial questions. I find it very hard to believe they had time to review the case to be able to make the claim. My original complaint was over 200 pages. Defendant Glick filed over 3,000 pages of documents. No judge's name was on the dismissal order. My Notice of Appeal was filed on July 23, 2009. I received a time order that was dated July 28, 2009. I received an order dated July 31, 2009 to show cause because someone unbelievably claimed questions in my appeal seemed to be insubstantial. So, supposedly, in 8 days, 6 business days, at most, the panel reviewed 4,000 pages. I did not have a

chance to order transcripts. I read that it takes the 9th circuit about 16 months to decide a case. If I could have appealed, I would have had 5 months to write a brief, but I only had 3 weeks, actually 17 days, to file a response to the order. The page limit and word limit to respond were absurd. Luckily, I got 45 days to file a paper because there was a federal party. Otherwise, I would have gotten 14 days or actually 10. I had to receive mail from across country and then send a response.

5. More about the Appeal. The order by the panel to affirm the district court's decision was an order and was unpublished. I guess that meant they did not want it used as precedent. It suggested they were not sure of the decision and there was not a precedent or they could not find one, if they had looked. It suggested written law did not support them. They did not explain their decision. The defense did not make a motion. A law or ruling says that such a motion will not ordinarily be entertained where an extensive review of the record is required. I do not believe the panel thought reviewing 4,000 pages was less than extensive. Circuit Rule 3-6 says "At any time prior to the completion of briefing…" That must mean briefing must have started. No brief was filed. The appeals panel's decision conflicts with a decision in *U.S. v. Hooton* and consideration by the full court is necessary to secure and maintain uniformity of the court's decisions. The proceeding involves questions of exceptional importance. It conflicts with the constitutional rights to petition, due process, equal protection, and about punishment. The *Hooton* court, referring to *U.S.*

v. Alex, said they did not believe the question of whether a defendant was entitled to an evidentiary hearing was so insubstantial as to merit summary disposition. That was one of my questions. I never got an evidentiary hearing about 391 or 83-8. The appeals panel said my petitions for panel rehearing and rehearing en banc were construed as a motion to reconsider en banc the panel's November 16, 2009 order and so construed, the motion for reconsideration en banc is denied on behalf of the court. That is ludicrous and corrupt. I clearly have the right to petition for a rehearing en banc and for a panel rehearing about any judgment or proceeding. I did not file a motion and nowhere on my petition did it say motion; it said petition. They indicated they wanted to prevent an en banc vote; such a vote was done in the Moloski case about an order or finding similar to the order Wright issued on me. The appeals panel saw something that made them want to do this case quickly. What was it? Was it because it was about judges and justices, because a pro se was trying to litigate and they wanted that pro se out of here? Did they want to make sure I could not appeal before I filed a brief? Did they put aside other cases they should have been working on? I say evidently. Rosen, I guess, and/or maybe Wright changed his words from same to "same or similar claims." They or one was showing evidence of admitting wrongdoing by now saying "similar." Claims can be similar as long as they are not the same claims that were already litigated. They said I must get a court order for further litigation with Rosen and his law firm; I never had a case with them. Wright

signed what Rosen wrote. I think Wright made a change about an amount of security.

6. General Discussion. I ask that defendants Hilberman, Boren, Sony lawyers, Glick, the CA Supreme Court, Wardlaw, Fisher, Berzon, and Clinton be declared and ruled vexatious litigants. Since the last case, I sent emails to the LA DA office about incidents. They did not respond. I am fighting the absurd idea that Glick, De Rosa, McGolgan, and Hilberman have claimed: that filing against others is the same as re-filing with Sony. CA Section 533 says an order, like a 391 order, can be challenged and undone if shown not right and/or not justice and/or applied wrong. *Kimes* overrules CA privilege if the constitution or Section 1983 is involved. Absolute privilege may be "lost if abused." (Halperin v Salvan, 117 AD2d 544, 548 [1st Dept 1986]). Privilege does not apply to the defendants' court papers because fraud, lying, and false statements do not achieve the object of litigation. *Pardi v. Kaiser* supports me. The federal court applied the same idea to Americans with Disabilities Act (ADA) claims. I have a mental disability. In *Steffes v. Stepan Co.*, 144 F.3d 1070, 1074 (7th Cir. 1998), there was the same decision about Title VII and ADA claims.

7. General Discussion Part2. The defendants who got me put on the 391 list had not been able to get a case totally dismissed with prejudice on the merits or supposed merits until the last case with Wright and his lies and corruption. Being put on the 391 list should never be done and receiving an 83-8 order should not have been done

to me. An 83-8 determination should be by a jury trial. If 391 were constitutional, it should be ruled on by a jury. That is about facts. CA FEHA prohibits retaliation by a person and employer. CA Government Code section 12940 prohibits retaliation by a person and employer. 391 discriminates in ways prohibited by the Civil Rights Act of 1964 and related laws. 391 does not take into account mistakes or lies by judges, lawyers, and defendants. It is arbitrary. It makes a limit of 5 cases and is applied to only some people. Crime and civil wrongs would probably be less if people were encouraged to take differences to court. I have heard that judges or some judges encourage that. I did not get a full and fair opportunity to litigate any case except the first one that was settled. There was obstruction of justice. What I have been doing is zealous advocacy. Judge Pregerson did not want to chill my zealous advocacy. Rosen stated that most of my issues have been dismissed without prejudice. Rosen claimed I have "attempted to litigate many issues" "against the same parties many times before" and "having lost" "previously." That was absolutely untrue and was bad faith and should be punished. Saying 83-8 use must be narrowly tailored contradicts 391 and means 391 is wrong. There was a whistleblower issue. I told Sony people had evidently overpaid and money was due back to them. I and others were told it was Sony's policy to keep the money unless the company asked for it.

8. General Discussion Part 3. Res judicata and collateral estoppel do not apply in my cases. Sony and Glick had not prevailed on merit in any case with me, yet got

391 used on me. They got 83-8 used on me by the corrupt and incompetent coward Wright and the corrupt and incompetent cowards appeals panel in the last case after having failed very time before in getting cases dismissed on the merits, even though they lied, tricked judges and justices, and had corrupt and/or incompetent and/or gullible judges and justices helping them. Congress and states keep adding laws, and that shows there are a lot of new ideas to consider. I did not get the 7th Amendment right about a jury trial. Only frivolous cases are not allowed under the Constitution. No judge or justice, except Wright, has claimed my cases were frivolous.

9. General Discussion Part 4. Rooker-Feldman does not apply to a constitutional challenge. It does not apply to a claim a state statute is unconstitutional and was not applied as written. If a plaintiff asserts as a legal wrong, an allegedly illegal act or omission by an adverse party, Rooker-Feldman does not apply. That is in *Wolfe v. Strankman*. The defendant judges and justices involved with the 391 issue were advocating, administrating, enforcing, defaming, and lacked jurisdiction. Justice Boren was an administrative judge, and Justice George was the administrator of the Judicial Council. Judge Lefkowitz was an administrative judge. They do not have judicial immunity. Putting me on the 391 list and upholding it and the 83-8 order were enforcing. No crime is a normal part or any part of judicial duty and is not protected by immunity and is not part of jurisdiction. The 11th Amendment does not apply if a constitutional violation is at issue. A violation of the 14th Amendment is an

exception to the 11th Amendment. There should be a place to go if federal court will not give a full and fair opportunity to bring a case, like Title IX and state court.

10. General Discussion Part 5. 391 is unconstitutional. I found many of the ideas in this paragraph from an article. 391 violates the 14th Amendment right to equal protection. It does not even pass the unconstitutional ideas courts use to determine equal protection, such as rational basis or strict scrutiny. Having levels of scrutiny means some cases do not have to be looked at, scrutinized, as closely as others. It violates the idea of equal protection and is not due process. CA Unruh agrees about equality. Unless defined, statutory terms are generally interpreted in accordance with their ordinary meaning. "Any person" in the 14th Amendment means just that. The 14th Amendment means there is no rational basis or any basis to treat people differently under the law. 391 is overbroad. It violates the 5th Amendment right to due process. It is a deprivation of a right and taking of property. It violates the 1st Amendment rights to petition and free speech. It is irrational that a lawyer is less likely to file a groundless case. Justice should not be for sale. 391 is censorship. It is prior restraint. It circumvents criminal procedural protections of barratry. It violates the 8th Amendment. The punishment of a lifetime loss of a fundamental constitutional right is not proportionate to losing 5 cases in 7 years. One can be punished for no wrongdoing. 391 holds pro se filings to standards of attorneys, and that violates due process. 391 does not describe how to pre-file or seek permission to

file. It is a Bill of Attainder. 391 tries to circumvent privilege in court papers by saying it does not matter what was said but only that one lost.

It chills 1st Amendment rights and zealous advocacy. It punishes people. It violates the constitutional idea of the punishment fitting the wrong. It violates the 8th Amendment. Disobedience of a pre-file order can be punished. The punishment for a pro se is not the same or equal for others, so it is unconstitutional. It violates the 5th Amendment. States can set the way they permit litigation, but the way must be constitutional. If parties cannot settle disputes, courts are usually the only forum empowered to settle disputes. In *Taliaferro v. Hoogs* (1965), a case cited to defend 391, it relies on *Beyerbach v. Juno Oil Co.* (1954), which relies on *Cohen v. Beneficial Loan Corp.* (1949). *Boddie v. Connecticut* (1971) strikes down a fee for indigents and talks about cutting of access to the courts entirely and not in a narrow context like in *Cohen*. Deprivation of a temporary right is unconstitutional. Pre-filing and security do that. That is not due process. Federal rules say a pro se paper should be thought of in a broad sense. In *Chambers v. B & O* (1907), the court said the right to sue and defend is the alternative to force and lies at the foundation of orderly government. Blameworthy does not matter in section 391. In *Bell v. Burson* (1971), blameworthiness mattered about requiring security for uninsured motorists in an accident. *Taylor v. Bell* (Cal.App.3d 1971) says all litigants should be treated equally, whether they have an attorney or not. Even the level of scrutiny should be

high; levels of scrutiny are unconstitutional. There is a loss of a fundamental right. The label vexatious is meant to discredit and is a stigma. Poorness or wealth has been called a suspect class in *Douglas v. California* (1963). The state does not seem to think it is a state interest to stop frivolous lawsuits filed by lawyers. That is ridiculous. 391 does not require that a case be frivolous for 391to be used. No statute or code of ethics prevents a lawyer from losing five cases in seven years or being punished for a frivolous lawsuit without bad faith. If a pro se does wrong, there are other ways of punishing them, and all people, rather than using 391, so 391 would not be needed, even if it were constitutional. The public is constantly criticizing lawyers for bringing unwarranted lawsuits. The public is not saying pro se's are the problem. Lawyers are even encouraged or required to mislead and commit fraud for their clients. Winning a case does not mean one was not vexatious. Litigiousness is not a reason for punishment. The merit of pro se cases is not considered under 391. The statute promotes a monopoly for lawyers. There is no guarantee a judge will allow a case with merit to be filed. Also, there is no guarantee a judge will require security for a good reason. Clogging the courts is not wrong by itself. Lawyers or pro se's can drag out cases for years. In *Bartholomew v. Bartholomew* (1942) and *Stevens v. Frick* (1966), the courts ruled that groundless or unmeritorious litigation was okay. Any good faith case should be allowed to be decided. 391e does not tell how one must pre-file. A pro se is punished without a trial under 391. The court in

Crain v. City of Mountain Home Ark. (1979) said that legislation that deprives a named or described person or group is a bill of attainder whether it is retributive, punishing, preventative, or discouraging future conduct. The 1990 amendments to 391 were apparently aimed at or because of one individual. The law is telling the judiciary how to do its job and who can be litigants and violates the separation of powers. Government blacklists possess almost every quality of bills of attainder is in *Joint Anti-Fascist Refugee Committee v. McGrath* (1951). The blacklisting is like taking of property rights by the government, which is a cause of action. In *Board of Regents v. Roth* (1971), the court said when the government is involved, a person has the right to clear his or her name.

11. General Discussion Part 6. More from an article is in this paragraph. Justice is not supposed to be for sale. 391 is vague because if one pre-files, there is no time set for the presiding judge to allow a filing. The statute of limitations could pass after the pre-filing request is made but before a presiding judge allows actual filing. Having to show evidence and explain it is unfair to a pro se or anyone at an evidentiary hearing. The person has to show his or her strategy. That is unfair, unequal treatment, and not due process. This stuff is saying I am un-American. That is something I will fight until I get justice or die. I found information from other articles. A statute is overbroad if it significantly prohibits conduct that is protected by the First Amendment as well as conduct that is not." (U.S. v. Williams, 553 U.S.

285, 292 (2008). In 2011, 391was amended (adding 391.8) to provide a procedure for a blacklisted person to have his name removed from the Judicial Council's blacklist "upon a showing of a material change in the facts upon which the order was granted". That shows the legislature knew the law was wrong, at least in some way. I am using 391.8.

12. General Discussion Part 7. CA Section 1708 says of abstaining from injury to a person or property of another or infringing upon any of his or her rights. CA Government Code section 945 says a public entity can sue and be sued. CA defendant judges and justices violated the CA Code of Judicial Ethics. They broke the CA oath to defend the United States and CA Constitutions. The defendant federal judge and justices violated their federal oath. Res judicata does not apply to any previous case in state court that was dismissed because one did not put up security. 391.2 states "No determination made by the court in determining or ruling upon the motion shall be or be deemed to be a determination of any issue in the litigation or of the merits thereof." 391 explicitly excludes merit as a factor. The county, state, and courts let me go through all of this because I did my duty and requirement of jury duty. The last issue and what got me fired was that I went on a jury duty and was told it was too long and not approved by Sony. SLAPP law supports me. I have passed all the tests in *Safir v. United States Lines, Inc.* All of this is causing me a lot of mental damage and stress. Stress kills. They are attempting

murder. That is a cause of action, and I am asserting it. I will probably die sooner than normal because of this stress. Then it would be murder. The Geneva Convention prohibits outrages upon a person's dignity in Common Article 3, 1949. The United Nations Conference against torture 1984 bans intimidating and coercing treatment. The United States Supreme Court has referred to the Geneva Convention. I have been mentally tortured by the defendants. That leads to a physical problem, too. I was harassed by state employees and county employees. I have the right to try to add a law or have a law repealed or change a law. I am trying that now. Laws have already supported me.

13. General Discussion Part 8. 391 discriminates. It affects people who cannot afford an attorney. Under 391, judges do not consider the merits, actions, mistakes, tricks, or lies of the other side. It does not matter if the judge made mistakes or was dishonest. I have read about cases where the judge approved a settlement. I wish I had gotten that chance in my two settled cases with Sony. I am not saying a judge did wrong. About 4 years after I was terminated, Sony put my supervisor, Russo, on probation, threatened her with termination, and put her on a Development Plan. Sometime within about a year, she was gone from Sony.

14. General Discussion Part 9. I proved the settlement can be voided. CA 1549-50, 1565-78, 1580-8, 1667-68, 1670.5, 1688-89, and 3525.1 support me. In the free speech case with Sony, 1983 applied to Sony because the LA DA's office was

involved and Sony's lawyers were officers of the court. *Winart* and CA 43support me. I did not get declaratory relief about if my emails were free speech. I want sanctions and to have Sony and Sony's lawyers and ex-lawyers and De Rosa, McGolgan, Clinton, their law firms, Glick, and the DA's Office sanctioned, disbarred or disbarment proceedings started or recommended, and declared vexatious litigants under 83-8. I also want it declared they violated 391, but I do not want it used on them because I could not in good conscience ask that. I want the law firms dissolved. I want to clear my name as *Regents* said can be done. The EEOC and courts were involved. Sony lied in court papers; I want to clear my name about that. They lied to Labor Relations, evidently under penalty of perjury.

15. Law Enforcement. I only want injunctive and declaratory relief from the LAPD to get them to investigate and take care of my complaints and to arrest the criminal defendants in this case that are in their jurisdiction and to tell me what to do to protect and defend myself. I am glad they have not tried 391 on me. The defendant law enforcement were supposed to stop the wrongs others have done to me and others. I did not get the due process of talking with someone about all my problems. My sources of aid were cut off and the government would not help me. That is in the *Estelle v. Gamble* and *Youngberg v. Romeo* that the court used in the *DeShaney* case. I had a deprivation of liberty because there was not another option than to go to law enforcement about crimes. I had a deprivation of liberty because there was no other

option other than to go to the government for investigation of federal and state crimes. The *DeShaney* case was about due process and not equal protection. In the *Botello* case, the court stated investigators only have qualified immunity. In *Roe v. City and County of San Francisco*, the court said prosecutors do not have absolute immunity for investigative matters. The court said immunity did not prevent injunctive relief. That should be true with doctors' papers. The government and law enforcement agencies are not immune under RICO. A federal court ruled the Los Angeles Police Department could be liable under RICO in 2000 in *Guerrero v. LAPD*. *Pedrina v. Chun* is also about RICO applying to law enforcement. I complained to the LAPD about problems with people. I complained to the CCPD about Sony. Some people get their complaints addressed or filed. I did not get equal protection of that or the LAPD "broken window" policy. I did not get due process. 1983 and CA 43 support.

16. Law Enforcement CCPD. I might accept declaratory and injunctive relief to get them to investigate my complaints and arrest the Sony wrongdoers. CCPD said *Monell* says one incident is not sufficient; they refused twice. CCPD did not respond to a November 2008 letter asking about harassment cases. That violated FOIA. I showed that the four elements the CCPD's lawyers say are necessary for a Section 1983 claim. (1) I possessed constitutional rights of which I was deprived. I had the rights of equal protection and due process. (2) The City of Culver turned my requests

down twice. That is now three times after my November 2008 letter. That is a custom, practice or policy. It was a pattern. They helped Sony many times. They would not help me. (3) The City's custom, practice or policy "amounts to deliberate indifference" to my constitutional rights. Inaction is about as indifferent as one can get. The inaction was deliberate because they knew about my complaints from my three attempts at contact. (4) The custom, practice or policy was "the moving force behind the constitutional violation." Their custom, policy or practice and pattern of not investigating my complaints were why I did not get my constitutional rights. They helped Sony many times so as to demonstrate a "widespread practice" "so permanent and well-settled to constitute a 'custom or usage' with the force of law."

17. Schmid and Voiles. De Rosa and McColgan of Schmid and Voiles defamed me when they stated in their motion that my cases did not have merit. Their client, Dr. Seltzer, did not have immunity for medical malpractice, fraud, discrimination, and refusal to look at my evidence. She offered advice and tried to help me. She sent a copy of a report, that I did not ask for, and stated anyone who showed it to the patient took responsibility for the patient's subsequent actions. She stated patients may misunderstand and distort information and that may interfere with therapy. It sounds like she considered me her patient and her my doctor. There was an issue of if she was my doctor. She said for suicidal and homicidal patients, the results of disclosure can be irreversible. I had thoughts of suicide. She accepted responsibility

and liability about the report. She, in effect, waived any immunity. She must have thought I would rely on the report. I pretty much had to for WC. I sent a check to an attorney at Schmid and Voiles, and it was never cashed, and I never got it back. With immunity, a violation of the 14th Amendment, there needs to be some way to do something in law enforcement or court to provide equal protection, like declaratory and injunctive relief. These lawyers stated I can use CA Civil Procedure Section 553 to stop 391 from being used on me. That was good. 553 use was in the *Luckett* case. They referred to *Luckett* that said a genuinely meritorious lawsuit will not be subject to an order to post security and will have no problem obtaining a presiding judge's permission. That has not happened with me. The *Luckett* court showed they believed a lifetime on the list was too severe. The courts would not allow me to use 533 and would not even address my points. The only way someone on the blacklist can be required to post security is if the case has merit. Judge Lefkowitz ordered me to post security, so that is supposed to mean my case had merit but she thought I would lose anyway. Judge Stern said he thought I brought my case in good faith about LA DA. He said good luck to me. I think he was trying to do the right thing. Schmid and Voiles lied when they said the law was lawfully imposed after a determination that my lawsuits were unmeritorious. An unconstitutional law cannot be imposed lawfully. Imposing an unconstitutional law that the person had not even violated is unconstitutional twice. One cannot determine something is true that is not true.

18. Judges and Justices. There is not judicial immunity for advocating, administration duties, enforcing, actions with lack of jurisdiction, and defaming. I was discriminated against on the basis of medical condition, disability, and serving on jury duty in state court. There is a special relationship with the federal and state governments. The federal government is supposed to prevent discrimination; the EEOC was set up for that. The courts have caused me psychological damage and other problems. Sony and other defendants have. A county hospital helped cause my PTSD, anxiety disorder, and depression. Lawyers are officers of the court and part of government. *Grant v. Johnson* (9th Circuit 1994) and *Wolfe v. Strankman* (9th Circuit 2004) support me about judicial immunity and exceptions. All the defendant judges and justices were not acting in good behavior. The United States Constitution says judges can be judges only during good behavior. Under federal tort law, judges are not supposed to have immunity for acts that violate litigants' civil rights. My civil rights were violated. My rights to petition, due process, and equal protection were violated. My 8th Amendment right about punishment was violated. Boren and Lefkowitz were not ruling between two parties. They were doing administrative work to see if my case could be filed or go forward. Lefkowitz, who behaved badly and without dignity by acting mad and walking off and saying she did not wish to discuss it anymore, was seeing if my case could go forward after it was filed. The

CA Supreme Court would not hear my case. They okayed an unconstitutional law being used I had not violated; they need to be stopped.

19. Judges and Justices Part 2. They talked about expectations in *Imbler v. Pachtma.* I did not expect the judges to use 391 against me, get my cases wrong, not respond to my points, or not discuss their reasons to dismiss issues or cases. I did not expect wrongdoing. I expected to get a fair chance at litigation. In *Pulliam v. Allen* (1984), the defendant was required to post bail or bond when he had not committed an offense that was punishable by jail. There was no judicial immunity there. Similarly, I was required to post security or bond when I was put on the 391 list, even though I had not done any of the things to be put on the list and even though my cases had merit. The US Supreme Court said judicial immunity does not protect state court judges from prospective injunctive relief in civil rights actions. In *New Alaska Development Corp. v. Guetschow* (9th Cir. 1988), there was not absolute immunity for slander. *In Morrison v. Lipscomb* (6th Cir. 1989), the court said a civil contempt proceeding may subject a judge to liability. Boren falsely accused me of not following pre-filing orders, which is punishable as contempt. Using and upholding 391 and the 83-8 were enforcing. A judge or justice, who uses a law not as written, has an agenda. Judges are not supposed to have agendas. A judge or justice, who uses 391 or 83-8, is advocating. A judge who uses those laws against a person who has not violated them is especially advocating and especially has an agenda. Not

allowing re-filing of cases dismissed without prejudice is advocating, corrupt, and someone with an agenda. A CA court ruled that a case dismissed without prejudice by a pro se defendant can count as one of the 5 cases in 7 years that can be used under 391. That is not in the law because the cases must be finally determined; that is legislating from the bench. The judge had a chance under 391 to say something is a frivolous tactic and use 391 for one tactic. Sony used that ruling against me, but I had not asked for a case to be dismissed without prejudice. The corrupt and incompetent Hilberman ruled for Sony.

20. Hope Mills. The town of Hope Mills corruptly and in bad faith used my case v. Hilberman et al. CV 07-7714-ODW . They discriminated and retaliated against me in employment selection. They defamed me to the EEOC. Doe(s) who did this are defendants.

21. Union. My issues with them were in other cases were discussed earlier. I have the right to re-file the last case. The complaint in that case has a lot more detail.

22. Remedy. In addition to what I have already mentioned, I would like compensation for lost Social Security, pension, and 401K funds for retirement. I would like reimbursement by the defendants to the federal government and Social Security Administration for disability payments to me. I want compensation for my payments for medical and psychological treatment and lost employment compensation since I left Sony and while at Sony. Sony and the other defendants

should have to reimburse Social Security for the benefits paid to me and pay me for benefits from August 2007 to January 2009. I would like declaratory relief about how to get these defendants arrested for their crimes and how to do citizen's arrest. There was intentional infliction of emotional distress (IIED) and negligent infliction of emotional distress (NIED). I will fight these defendants involved with 391 until they lose a big lawsuit and/or go to prison. If the courts and law enforcement will not help me, I will try citizen's arrest. This case will be my last attempt at resolving this in civil court, unless the case is dismissed without prejudice so that I can go to another court. If that does not happen, I will try citizen's arrest. If any of them try or lead me to believe they are trying to kill me or cause me great harm, then I have the right to defend myself up to and including killing them. I will exercise that right to the best of my ability. If anyone tries to stop me, they will be obstructing justice. I will try citizen's arrest on them. I would like compensatory, emotional, punitive, injunctive, and declaratory relief. I want amounts of $1 million from each individual, human defendant. I want only injunctive relief from LAPD and CCPD to get them to help me and arrest the corrupt defendants in this case that are in their jurisdiction. I am not sure about Mellon. I want the law firms dissolved, except maybe Schmid and Voiles. I want all the lawyers disbarred. I want $10 million from Sony, each of Sony's law firms, and the LA DA's office, because they tried to use 391 and 83-8 and got it. I want $1 million from Hope Mills for advocating 391, trying to use it, and

defaming me about it. I want $500,000 from Schmid and Voiles for advocating 391and its use on me and for defaming me. I want $1 million from Kim Russo. I want them to pay to get me back to normal psychological health and then hire me as a Financial Analyst or above with advancement opportunities or find me a position like that. I should have been into a manager or director position by now, if I had not been fired; I want that. I want it declared that those who used and advocated 391 and 83-8 against me are traitors to the United States and have aided and abetted enemies of the United States. I request a jury trial.

Glenn Henderson

Glenn Henderson 7/9/13